MONTANA LEGISLATIVE HISTORY

Chapter 236 1999

Bill H 300 S _____ Original bill & history ✓ C

H. Committee on Natural Res.			S. Committee on Local Gov		
Hearing Date(s)	1-25	✓ C	Hearing Date(s)	3 16	✓ C
	2-3	✓ C		3 18	✓ C
	_____	___ C		_____	___ C
	_____	___ C		_____	___ C
Date Out	_____	___ C			

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendent information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

B 298 Introduced by Fuchs, et al. *LC0618 Drafter: Vandenbosch*

Clarify Requirements for Water Supplies for Proposed Subdivisions;...

1/15	Introduced and 1st Reading		
1/15	Referred to Natural Resources		
1/25	Hearing		
2/03	Tabled in Committee		
2/18	Taken from Table in Committee		
2/18	Committee Executive Action--Bill Passed	13	7
2/18	Committee Report--Bill Passed		
2/22	2nd Reading Passed as Amended	71	28
2/24	3rd Reading Passed	74	25
	Transmitted to Senate		
3/01	Referred to Natural Resources		
3/12	Hearing		
3/23	Tabled in Committee		
	Died in Standing Committee		

IB 299 Introduced by Barnhart *LC0921 Drafter: Kurtz*

Require Covered Loads on Vehicles Transporting Sand and Gravel on Public Highways;...

1/15	Introduced and 1st Reading		
1/15	Referred to Transportation		
1/27	Hearing		
1/27	Tabled in Committee		
3/01	Missed Deadline for General Bill Transmittal		

HB 300 Introduced by Ohs *LC1353 Drafter: Everts*

Clarify the Time Limits for a Governing Body to Take Action on a Preliminary Plat or Minor Subdivision;...

1/15	Introduced and 1st Reading		
1/15	Referred to Natural Resources		
1/25	Hearing		
2/04	Committee Executive Action--Bill Passed	16	4
2/04	Committee Report--Bill Passed		
2/06	2nd Reading Passed	94	4
2/08	3rd Reading Passed	93	4
	Transmitted to Senate		
2/09	Referred to Local Government		
3/16	Hearing		
3/19	Committee Executive Action--Bill Concurred	5	3
3/19	Committee Report--Bill Concurred		
3/22	2nd Reading Concurred	49	0
3/23	3rd Reading Concurred	40	8
	Returned to House		
3/24	Sent to Enrolling		
3/24	Returned from Enrolling		
3/26	Signed by Speaker		
3/26	Signed by President		
3/29	Transmitted to Governor		

4/05	Signed by Governor		
4/06	Chapter Number Assigned		
	Chapter Number 236		
	Effective Date: 4/05/1999 - All Sections		

HB 301 Introduced by McCann, et al. *LC0481 Drafter: Maly*

Allow School Districts and Special Education Cooperatives to Hire Unlicensed Speech-language Pathologists under Certain Conditions;...

1/15	Introduced and 1st Reading		
1/15	Referred to Education		
1/22	Hearing		
1/28	Committee Executive Action--Bill Passed as Amended	14	3
1/28	Committee Report--Bill Passed as Amended		
2/03	2nd Reading Passed as Amended	69	31
2/05	3rd Reading Passed	73	27
	Transmitted to Senate		
2/06	Referred to Education and Cultural Resources		
3/08	Hearing		
3/20	Committee Executive Action--Bill Concurred as Amended	8	3
3/20	Committee Report--Bill Concurred as Amended		
3/22	2nd Reading Concurred	33	16
3/23	3rd Reading Concurred	34	15
	Returned to House with Amendments		
4/13	2nd Reading Senate Amendments Concurred	94	6
4/14	3rd Reading Passed as Amended by Senate	80	18
4/14	Sent to Enrolling		
4/15	Returned from Enrolling		
4/16	Signed by Speaker		
4/16	Signed by President		
4/16	Transmitted to Governor		
4/20	Signed by Governor		
4/22	Chapter Number Assigned		
	Chapter Number 367		
	Effective Date: 4/20/1999 - All Sections		

HB 302 Introduced by Krenzler *LC0767 Drafter: B. Campbell*

Require All Interest Earned on Development Loans to Microbusiness Development Corporations to Be Deposited into the Microbusiness Finance Program Administrative Account;...

1/15	Introduced and 1st Reading		
1/15	Referred to Business and Labor		
1/15	Fiscal Note Requested		
1/19	Fiscal Note Received		
1/19	Fiscal Note Signed		
1/20	Fiscal Note Printed		
1/25	Hearing		
1/26	Committee Executive Action--Bill Passed	18	0
1/27	Committee Report--Bill Passed		
1/29	2nd Reading Passed	63	36
1/30	Rereferred to Appropriations		
3/08	Hearing		
3/10	Committee Executive Action--Bill Passed as Amended	12	6

INTRODUCED BY Kaufman (Primary Sponsor) H BILL NO. 300

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE TIME LIMITS FOR A GOVERNING BODY TO TAKE ACTION ON A PRELIMINARY PLAT OR A MINOR SUBDIVISION; AMENDING SECTIONS 76-3-604 AND 76-3-609, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 76-3-604, MCA, is amended to read:

"**76-3-604. Review of preliminary plat.** (1) The governing body or its designated agent or agency shall review the preliminary plat to determine whether it conforms to the local master plan if one has been adopted pursuant to chapter 1, to the provisions of this chapter, and to rules prescribed or adopted pursuant to this chapter.

(2) The governing body shall approve, conditionally approve, or reject the preliminary plat within 60 working days of its presentation unless the subdivider consents to an extension of the review period.

(3) If the governing body rejects or conditionally approves the preliminary plat, it shall forward one copy of the plat to the subdivider accompanied by a letter over the appropriate signature stating the reason for rejection or enumerating the conditions ~~which~~ that must be met to ~~assure~~ ensure approval of the final plat."

Section 2. Section 76-3-609, MCA, is amended to read:

"**76-3-609. Review procedure for minor subdivisions.** Subdivisions containing five or fewer parcels in which proper access to all lots is provided and in which ~~no~~ there is not any land ~~is~~ to be dedicated to the public for parks or playgrounds are to be reviewed as follows:

(1) The governing body shall approve, conditionally approve, or disapprove the first minor subdivision from a tract of record within 35 working days of the submission of the application.

(2) The governing body shall state in writing the conditions that must be met if the subdivision is conditionally approved or what local regulations would not be met by the subdivision if it disapproves

the subdivision.

(3) The requirements for holding a public hearing and preparing an environmental assessment do not apply to the first minor subdivision created from a tract of record.

(4) Subsequent subdivisions from a tract of record must be reviewed under 76-3-505 and regulations adopted pursuant to that section."

NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 4. Applicability.** [This act] does not apply to subdivision proposals submitted to a governing body prior to [the effective date of this act].

- END -

HB 270 SPONSOR: Trexler, Cliff SHORT TITLE: Clarify certain definitions relating to divisions of land
REFERRED ON: 01/13/1999 HEARD ON: 01/22/1999
TABLED ON: 01/29/1999
FINAL DISPOSITION 03/01/1999 (H) Missed Deadline for General Bill Transmittal

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HB 298 SPONSOR: Fuchs, Daniel SHORT TITLE: Prohibiting requirement of cisterns under certain conditions
REFERRED ON: 01/15/1999 HEARD ON: 01/25/1999
EXECUTIVE ACTION: 02/18/1999 Bill Passed -- VOTE: 13 - 7
TABLED ON: 02/03/1999
FINAL DISPOSITION 04/22/1999 (S) Died in Standing Committee

HB 300 SPONSOR: Ohs, Karl SHORT TITLE: Revise subdivision and platting act
REFERRED ON: 01/15/1999 HEARD ON: 01/25/1999
EXECUTIVE ACTION: 02/04/1999 Bill Passed -- VOTE: 16 - 4
FINAL DISPOSITION 04/06/1999 Chapter Number Assigned

HB 331 SPONSOR: Ahner, Chris SHORT TITLE: Authorize local health boards to adopt institutional controls at specified sites
REFERRED ON: 01/19/1999 HEARD ON: 01/27/1999
EXECUTIVE ACTION: 02/04/1999 Bill Passed -- VOTE: 19 - 1
FINAL DISPOSITION 03/24/1999 Chapter Number Assigned

HB 340 SPONSOR: Anderson, Shiell SHORT TITLE: Require preservation of monuments for land survey purposes
REFERRED ON: 01/20/1999 HEARD ON: 01/29/1999
EXECUTIVE ACTION: 02/09/1999 Bill Passed -- VOTE: 18 - 2
FINAL DISPOSITION 04/22/1999 (S) Died in Standing Committee

HB 346 SPONSOR: Raney, Bob SHORT TITLE: Require annual monitoring reports on compliance with EIS mitigation measures
REFERRED ON: 01/21/1999 HEARD ON: 02/01/1999
EXECUTIVE ACTION: 02/02/1999 Bill Passed as Amended -- VOTE: 18 - 2
FINAL DISPOSITION 04/22/1999 (S) Died in Standing Committee

HB 392 SPONSOR: Tash, Bill SHORT TITLE: Expand DEQ consultation with statewide TMDL advisory group
REFERRED ON: 01/26/1999 HEARD ON: 02/01/1999
EXECUTIVE ACTION: 02/02/1999 Bill Passed -- VOTE: 19 - 1
FINAL DISPOSITION 03/19/1999 Chapter Number Assigned

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN BILL TASH**, on January 25, 1999 at 3:10 P.M., in Room 437 Capitol.

ROLL CALL

Members Present:

Rep. Bill Tash, Chairman (R)
Rep. Hal Harper, Vice Chairman (D)
Rep. Cindy Younkin, Vice Chairman (R)
Rep. Rod Bitney (R)
Rep. Aubyn A. Curtiss (R)
Rep. Rick Dale (R)
Rep. Bill Eggers (D)
Rep. Ron Erickson (D)
Rep. David Ewer (D)
Rep. Gail Gutsche (D)
Rep. Joan Hurdle (D)
Rep. Dan McGee (R)
Rep. Douglas Mood (R)
Rep. Karl Ohs (R)
Rep. Scott J. Orr (R)
Rep. Bob Raney (D)
Rep. Bob Story (R)
Rep. Jay Stovall (R)
Rep. Carley Tuss (D)
Rep. Doug Wagner (R)

Members Excused: None.

Members Absent: None.

Staff Present: Deb Thompson, Committee Secretary
Kathleen Williams, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: House Bill 142, 1/20/1999;
House Bill 298, 1/20/1999
House Bill 300, 1/20/98

Executive Action: None

understand the changes that were being proposed and how they applied to the current program. He described the current review process. ***{Tape : 2; Side : A; Approx. Time Counter : 17.1}***

Joan Miles, representing Lewis and Clark County Health Department, spoke against the bill. She said they did not really understand the proposal and how to implement it in the field. She explained as a local health department they were under contract with the state Department of Environmental Quality to review subdivisions. She pointed out there was no guidance on hauling water from a reasonable distance. She said if a potable water source is available for hauling, look at the public policy implications. Can subdivisions be approved without a dependable and safe water supply? She said she had to certify that there was adequate evidence of a sufficient water supply, she should not have to tell a property buyer they had to haul the water in.

Questions from Committee Members and Responses: Rep. McGee asked the sponsor what the point of the bill was. Rep. Fuchs referred to the Administrative Code Commission meeting. The statute requires that an alternative water source be available. He explained the state has no authority to prevent you from drilling a well on your property, unless it is a controlled ground water area. If the well meets state standards, there is no reason to require a cistern as long as there is an alternative water supply available. The department can recommend a cistern, but that is where their responsibility should end. They have been requiring cisterns in the past. He read a excerpt from the Minutes from the Administrative Code Committee by Rep. Kottel. **EXHIBIT(14)**

Closing by Sponsor: Rep. Fuchs closed. He said even after the Administrative Code Commission meeting, the department has continued to take a position that they don't understand this. If you have an adequate well, that meets their standards under their own rules, in terms of quantity and quality, why is there a requirement for a $2,000 holding tank in the ground. Certainly, in the future an aquifer could be diminished. There is no sense to having a holding tank in the ground. People should make their own decisions and choices. The department does have a responsibility when they approve that subdivision to say on the plat, that they believe the aquifer may not be adequate or the well could be contaminated, then cisterns are recommended by the department. There is no liability beyond that.

HEARING ON HOUSE BILL 300

Sponsor: Rep. Karl Ohs, HD 33, presented the bill. He explained the bill added the word "working". These are technical

amendments. He said this clarifies the number of days local government has to review major and minor subdivisions. If the 60 days fell on a holiday or a Sunday, some of the local governments could be up for a lawsuit because they didn't finish the work in time. This change would slightly extend the days the local governments have to look at these. He pointed out there was a lot of growth in his county with very limited staff.

Proponents: Jane Jelinski, Montana Association of Counties, spoke in favor of the bill. She said there was unanimous support to pursue this legislation at the association's annual meeting. She said this was a benefit to rapid growing counties. She pointed out the frozen tax levies and limited revenues. ***{Tape : 2; Side : A; Approx. Time Counter : 34.9}***

Howard Gipe, Flathead County Commissioner and chair of the MACO Subdivision Committee, spoke in favor of the bill. He pointed out the explosion of growth in Flathead County. He said this was a problem every day and they were rushed all the time.

Allen McCormick, Associate Planner with Lewis and Clark County and chair of the Legislative Committee for the Montana Association of Planners, described the subdivision process. He said a small amount of additional time is fair. ***{Tape : 2; Side : A; Approx. Time Counter : 37.9}***

Anne Hedges, Montana Environmental Information Center, spoke in favor of the bill. She said this would allow for more thoughtful decision making.

Opponents: Dick Ainsworth, Land Use Planner in Missoula and Montana Association of Registered Land Surveyors, spoke against the bill. **EXHIBIT(15), EXHIBIT(16)** He pointed out the real problem with the time frames for subdivision review in the present law is not that they are too short, but that they were ignored by the majority of local governments. He asked if no one intended to live by the time frames why put them in the law at all. He described the creative ways the time constraints had been lengthened without ever going to the legislature, see Exhibit 15.

Questions from Committee Members and Responses: Rep. Erickson asked Mr. McCormick to describe the time frames. McCormick listed the various time frames that were needed to accomplish the process. He said the reason you see time frames starting at different points is because there is not enough time to handle the review. ***{Tape : 2; Side : A; Approx. Time Counter : 53.9}***

Rep. McGee asked about the suggestion by Mr. Ainsworth that said 60 working days and if the work is not done and has not been granted an extension then it would be deemed approved.

Rep. Dale asked about rural counties where the applicants had a close relationship to those administering the subdivision law. There is generally an understanding of what is required. He asked if the process had been misused. Rep. Ohs responded that in his county with a limited staff and a great deal of subdivision activity that they were hard pressed to keep up.

Rep. Dale asked McCormick if there were situations where incomplete applications were put off. McCormick replied he hoped applications were considered on their merits and someone at the county would not abuse their power.

Rep. Dale asked Mr. Ainsworth about the misuse of authority for the extension of time. Ainsworth replied he could see that in Missoula County. He said there was nothing in the subdivision and platting act that talked about the requirement to review a packet as complete. The process of reviewing for completeness isn't in the law, the counties have added that.

{Tape : 2; Side : B}
Rep. Dale asked Ms. Jelinski to address consistency. Jelinski replied MACO was trying to provide more technical support. She noted most counties have clearly written policies of procedures and a checklist for a subdivision. She described circumstances where asking for an extension was appropriate and necessary.

Closing by Sponsor: Rep. Ohs closed. He pointed out the bill added a word in two places-"working".

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN BILL TASH**, on February 3, 1999 at 3:10 P.M., in Room 437 Capitol.

ROLL CALL

Members Present:

Rep. Bill Tash, Chairman (R)
Rep. Hal Harper, Vice Chairman (D)
Rep. Cindy Younkin, Vice Chairman (R)
Rep. Rod Bitney (R)
Rep. Aubyn A. Curtiss (R)
Rep. Rick Dale (R)
Rep. Bill Eggers (D)
Rep. Ron Erickson (D)
Rep. David Ewer (D)
Rep. Gail Gutsche (D)
Rep. Joan Hurdle (D)
Rep. Dan McGee (R)
Rep. Douglas Mood (R)
Rep. Karl Ohs (R)
Rep. Scott J. Orr (R)
Rep. Bob Story (R)
Rep. Jay Stovall (R)
Rep. Carley Tuss (D)
Rep. Doug Wagner (R)

Members Excused: Rep. Bob Raney (D)

Members Absent: None.

Staff Present: Deb Thompson, Committee Secretary
Kathleen Williams, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 423, 2/6/1999
Executive Action: HB 298, HB 331, HB 300, HB 142

who has to haul water. Rep. Bitney replied that a buyer has rights and real estate practitioners must give full disclosure. ***{Tape : 1; Side : A; Approx. Time Counter : 55.1}***

Rep. Hurdle said the bill was based on an incident that happened to the sponsor's father because of a required cistern. Director Siminich noted the department does not require cisterns. They look at the tract to determine if the quantity and quality of the water supply is adequate, if not it is disapproved. The proposal could then be modified and could include the use of a cistern. He pointed out the problem for individuals who found out at a later time that their water supply was not adequate and would require a substantial cost to locate an alternate water supply.

Rep. Hurdle **MOVED TO TABLE HB 298.** The motion **PASSED** 13-7. ***{Tape : 1; Side : B}***

EXECUTIVE ACTION ON HOUSE BILL 331

Rep. Curtiss **MOVED DO PASS.** Rep. McGee discussed the terms "institutional control" or "remedy". Rep. Curtiss pointed out the hearing had no opponents. The bill was practical and a cost effective way to protect the environment.

The question was called. The motion **PASSED** 19-1 with Rep. Wagner voting no.

EXECUTIVE ACTION ON HOUSE BILL 300

Rep. Ohs **MOVED DO PASS HB 300.** Rep. Younkin said 60 working days was too long when considering weekends and holidays. Rep. Ohs replied this was a reasonable time. Small counties have small staff with lots of subdivision work.

The question was called. The motion **PASSED** with 4 no votes by Reps. Younkin, McGee, Orr and Wagner.

EXECUTIVE ACTION ON HOUSE BILL 142

Rep. Curtis **MOVED DO PASS HB 142.** ***{Tape : 1; Side : B; Approx. Time Counter : 17.7}*** **EXHIBIT(7), EXHIBIT(8)**

Rep. Ewer explained if the public thinks an EIS is not a good job it could be litigated. The bill would say the scoping ends with the department, you can't expand the scope of the environmental assessment in district court.

HB 300 SPONSOR: Ohs, Karl SHORT TITLE: Revise subdivision and platting act
REFERRED ON: 02/09/1999 HEARD ON: 03/16/1999
EXECUTIVE ACTION: 03/19/1999 Bill Concurred -- VOTE: 5 - 3
FINAL DISPOSITION 04/06/1999 Chapter Number Assigned

HB 320 SPONSOR: Ewer, David SHORT TITLE: Establish procedure for authorizing revenue bonds
REFERRED ON: 02/03/1999 HEARD ON: 03/11/1999
TABLED ON: 03/12/1999
FINAL DISPOSITION 04/22/1999 (S) Died in Standing Committee

HB 325 SPONSOR: Brainard, Matt SHORT TITLE: Allow regulation of barking dog in residential neighborhood by county ordinance
REFERRED ON: 02/23/1999 HEARD ON: 03/23/1999
EXECUTIVE ACTION: 03/24/1999 Bill Concurred -- VOTE: 9 - 2
FINAL DISPOSITION 04/06/1999 Chapter Number Assigned

HB 326 SPONSOR: Brainard, Matt SHORT TITLE: Revise duties of county auditor
REFERRED ON: 02/22/1999 HEARD ON: 03/23/1999
TABLED ON: 03/24/1999
FINAL DISPOSITION 04/22/1999 (S) Died in Standing Committee

HB 336 SPONSOR: Gillan, Kim SHORT TITLE: Clarify use of street maintenance funds in urban areas
REFERRED ON: 02/23/1999 HEARD ON: 03/18/1999
EXECUTIVE ACTION: 03/19/1999 Bill Concurred -- VOTE: 7 - 1
FINAL DISPOSITION 03/30/1999 Chapter Number Assigned

HB 338 SPONSOR: Masolo, Gay Ann SHORT TITLE: Increase amount for purchase contracts before which county bid is required
REFERRED ON: 02/22/1999 HEARD ON: 03/23/1999
EXECUTIVE ACTION: 03/24/1999 Bill Concurred -- VOTE: 11 - 0
FINAL DISPOSITION 04/06/1999 Chapter Number Assigned

HB 353 SPONSOR: Tash, Bill SHORT TITLE: Allow local government sale or gift of historic property
REFERRED ON: 02/22/1999 HEARD ON: 03/16/1999
EXECUTIVE ACTION: 03/19/1999 Bill Concurred -- VOTE: 7 - 0
FINAL DISPOSITION 03/30/1999 Chapter Number Assigned

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN MIKE SPRAGUE**, on March 16, 1999 at 3:00 P.M., in Room 405 Capitol.

ROLL CALL

Members Present:

Sen. Mike Sprague, Chairman (R)
Sen. Ken Miller, Vice Chairman (R)
Sen. John C. Bohlinger (R)
Sen. Chris Christiaens (D)
Sen. Dorothy Eck (D)
Sen. Bill Glaser (R)
Sen. Duane Grimes (R)
Sen. Don Hargrove (R)
Sen. J.D. Lynch (D)
Sen. Dale Mahlum (R)
Sen. Jon Tester (D)

Members Excused: None.

Members Absent: None.

Staff Present: Jodi Pauley, Committee Secretary
Mary Vandenbosch, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 205, 3/10/1999; HB 353, 3/10/1999; HB 300, 3/10/1999; HB 338, 3/10/1999
Executive Action: HB 411

EXECUTIVE ACTION ON HB 411

Discussion:

Mary Vandenbosch said this bill allows a city to designate the

ACTING CHAIRMAN GRIMES said this bill doesn't limit the purpose for which one of these transferred properties can be used. He asked what would prevent a soup kitchen, etc. from being formed in this historical building. **Mona Jamison** said this comes down to the discretion of the local governing body that is entering into the contract. There is no limitation in the initial transfer as to the use of the property. But in the contract it has to be preserved and provides for the reversion of the property to the county for non-compliance. If they wanted a soup kitchen it would have to be in that contract.

ACTING CHAIRMAN GRIMES asked if she was familiar with **SB 207** which allowed the transfer of county property for non-profit purposes. **Mona Jamison** said she was not aware of that bill. The county owns the property at Robbers Roost and they can't maintain it. If they don't do something to allow these friendly deals they are going to loose these properties by sheer weather.

Closing by Sponsor:

REP. TASH said there are a lot of buildings owned by municipalities. Madison County owns this building and they want it preserved.

{Tape : 1; Side : B; Approx. Time Counter : 4:05 p.m.}

HEARING ON HB 300

Sponsor: **REP. KARL OHS, HD 33, Harrison**

Proponents:

Linda Stoll, MT Assoc. of Planners
Glenna Obie, Jefferson Co. Commissioners
Jane Jelinski, MACo
Mike Murry, Lewis and Clark Commissioner
Larry Marshall, MT Assoc. of Registered Land Surveyors
Stephen Ries, Ries Surveying

Opponents:

Byron Roberts, MT Building Industry Assoc.
Cliff Christian, MT Building Industry Assoc.

Opening Statement by Sponsor:

REP. KARL OHS, HD 33, Harrison, said this specifies that with major subdivisions there would be 60 working days for review and

35 working days for minor subdivisions. He said with current law often times the 60th day falls on a weekend or holiday and this will clarify that.

Proponents' Testimony:

Linda Stoll, MT Assoc. of Planners, submitted a letter from Alan McCormick, Montana Assoc. of Planners. **EXHIBIT(3)** She also turned in a submittal check-off sheet for minor subdivisions. **EXHIBIT(4)** This checkoff sheet was established by the state legislature and planners and county commissioners must meet these standards. She said often counties only have one planner and it is very difficult for them to get all of their work done in the allotted time frame. This bill will clarify when action is required by the local government.

Glenna Obie, Jefferson Co. Commissioners, said rural counties are rapidly growing areas. Jefferson County is the second fastest growing county in the state. She turned in a subdivision review for Jefferson County. **EXHIBIT(5)** She said their county only has one planner and he has to hire all of his own clerical staff, etc. She also turned in a population estimate for counties from the Department of Commerce. **EXHIBIT(6)** She said planning in Jefferson County is done by a volunteer planning board. Public meetings have to be posted, major subdivision have to have a hearing and it takes time to get all of these requirements done in an appropriate fashion. She said the planning board and commissioners try to view the property when a development is being proposed and it takes time. She said they want to do their job and be able to provide for the health and safety of their citizens and new citizens moving into their county. She said to do a good fair job it takes time and this bill is fair to everyone included. She passed out a handout from the Stillwater County Planning Office. **EXHIBIT(7)**

{Tape : 1; Side : B; Approx. Time Counter : 4:17 p.m.}

Jane Jelinski, MACo, said if a major subdivision is submitted on a Friday there is only 41 actual working days for this review. This is not a lot of time to work on a major subdivision review that has hundreds of lots, access concerns, traffic concerns, water concerns, and public and health issues. Planning boards are more than likely going to turn down a subdivision review if they don't have enough time to look at it thoroughly. She turned in a letter of support for **HB 300. EXHIBIT(8)**

Mike Murry, Lewis and Clark Commissioner, said this bill allows them some more time to review applications. He said occasionally if they run out of time they have to ask the applicant to request

an extension. This is not the way it should work and this bill will help eliminate that. He said in Lewis and Clark County they average three subdivisions per week.

Larry Marshall, MT Assoc. of Registered Land Surveyors, passed out some proposed amendments. **EXHIBIT(9)** He said with this amendment they would be allowing 75 days for review. He said they would like to change three working days to five working days in the amendment. This will help protect the developer and the home owner.

Stephen Ries, Ries Surveying, rose in support of **HB 300.**

Opponents' Testimony:

Byron Roberts, MT Building Industry Assoc., said they would all like to have more time in their lives. But time is money and the longer it takes the governing body to approve a subdivision or review a house, the more it will cost the home buyer. He said they must be able to build homes in a reasonable time. He said they have not heard of any time frame problems from governing bodies. Most are complying with these time frames without a great deal of inconvenience. Page 1, line 17, the governing body can request a time extension from the subdivider and most have no problem doing this. Subdivision review and approval is fee based. If there is an overload of subdivision reviews, they can hire more staff, etc. to take care of this. If it is changed to 60 working days the governing body would have 72 days for review. The clarification is already in existing law.

Cliff Christian, MT Building Industry Assoc., said this battle was already fought in the subdivision platting laws and this has worked very well. **EXHIBIT(10)** He said developers are happy to extend time to the governing body if they need more time. If this bill passes then next session they will be in here again trying to extend the time, etc.

{Tape : 2; Side : A; Approx. Time Counter : 4:32 p.m.}

Questions from Committee Members and Responses:

SEN. JOHN BOHLINGER asked what is the time line for major and minor subdivisions. **Jane Jelinski** said major subdivisions are 60 days and minors are 35 days.

SEN. BOHLINGER asked if this law passed would it be 72 days? **Jane Jelinski** said it depends on holidays and weekends.

SEN. BOHLINGER asked how affective are counties and does it take them the full 60 days, etc. to process the review. **Jane Jelinski** said the Association of Counties voted unanimously to request this legislation because it is a problem. Rapidly growing counties are stacked up with hundreds of subdivisions. Smaller growing counties also have problems because they are losing tax base and they don't have the staff, etc. to deal with subdivisions, etc.

SEN. BOHLINGER asked in those rapidly growing counties can they contract with outside professional help? **Jane Jelinski** said yes they can, but most don't have the revenue to do that.

SEN. BOHLINGER asked if the developer would be responsible for providing for part of the cost associated with these subdivisions, etc. **Jane Jelinski** said counties do provide for filing fees. She used the example of a huge subdivision that was adjacent to another subdivision and there was some water concerns. She said they were close to the deadline with the review and an engineer came in with hydro-geological information that directly contradicted the developer's information. She said they had to have more time to get an outside independent review for this subdivision. The conditions of that data was changed tremendously because of that report from an outside source and this extension of time was important.

SEN. DOROTHY ECK said the problem seems to be that there are not always enough staff to do the work. And are the fees that they receive efficient enough to cover the work of the staff. **Glenna Obie** said in Jefferson County in 1996 they went from a half time planner to a full time planner. She said in their budget last year they charged $300 for a minor and $600 for a major subdivision. Those fees do not cover the planner's full salary. The budget is very limited and they do use metal mine licensing tax funds to cover the planning department's budget.

SEN. ECK asked in counties without these earmarked funds would they use General Fund money. **Glenna Obie** said yes, they would have to increase the mill levy fund and take the money out of some other department.

SEN. ECK asked if the fee is capped. **Glenna Obie** said they could raise the fee if they wanted.

SEN. ECK said time limits are important, but would it be a problem if fees were increased to review subdivisions. **Byron Roberts** said fees should be charged and Local Governments have the authority to do this.

SEN. ECK asked how often do they run into a situation where the planner will ask for an extension. **Jane Jelinski** said it happens on the larger, more complex subdivisions occasionally. She said they had a developer from the east that subdivided the area into one acre lots and in the covenants she provided that each lot could have one horse, one lama and one buffalo. They wouldn't let her do that and this was a case in which they asked for an extension over the deadline to get her some information on why they couldn't do this because she was going to sue them. **Mike Murry** said they average about 15 per year that need extensions. However, under the law they don't have the authority to do it, but they do it anyway. **Cliff Christian** said in the current law the subdivider can consent to an extension of review. He said the fees are $300 and $600 per lot not per subdivision. County planning departments do more than just review subdivisions. **Mike Murray** said the problem is the staff doesn't have time to do an adequate subdivision review. The developer has the right to say no if they don't want the extension and then the planning board usually turns down a potentially excellent development.

SEN. BOHLINGER asked if an option is available for an extension of time by the developer. **Mike Murry** said the developer may asked for an extension at anytime.

Closing by Sponsor:

REP. OHS said he represents a very small county government with a very big growth problem. He said their planning staff is all voluntary and this is a problem. If the planner does not have the time, the subdivision will more than likely be turned down.

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN MIKE SPRAGUE**, on March 18, 1999 at 3:15 P.M., in Room 405 Capitol.

ROLL CALL

Members Present:

Sen. Mike Sprague, Chairman (R)
Sen. Ken Miller, Vice Chairman (R)
Sen. John C. Bohlinger (R)
Sen. Chris Christiaens (D)
Sen. Dorothy Eck (D)
Sen. Bill Glaser (R)
Sen. Duane Grimes (R)
Sen. Don Hargrove (R)
Sen. J.D. Lynch (D)
Sen. Dale Mahlum (R)
Sen. Jon Tester (D)

Members Excused: None.

Members Absent: None.

Staff Present: Jodi Pauley, Committee Secretary
Mary Vandenbosch, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 336, 3/11/1999; HB 443, 3/11/1999; HB 614, 3/11/1999; HJR 29, 3/11/1999
Executive Action: HB 336; HB 443; HJR 29; HB 91; HB 205; HB 353; HB 300

HEARING ON HB 336

Sponsor: **REP. KIM GILLAN, HD 11, Billings**

SEN. MILLER said currently people don't even have a vote, they are ruled by the city council.
SEN. HARGROVE said this is why he didn't support CI-75. He said in their primary election seven percent showed up and therefore three and half percent of the people would be raising taxes for everyone else.

Vote: Motion **carried 5-2 with Hargrove and Tester voting no.**

Motion: **SEN. MILLER** moved **AMENDMENTS HB009101.amv BE ADOPTED. EXHIBIT(7)**

Discussion:

Mary Vandenbosch explained the amendments. **(EXHIBIT 7)**

Vote: Motion **carried 7-0.**

Motion/Vote: **SEN. MAHLUM** moved **HB 91 BE CONCURRED IN AS AMENDED. Motion carried 6-4 on a roll call vote.**

EXECUTIVE ACTION ON HB 205

Motion/Vote: **SEN. HARGROVE** moved **HB 205 BE CONCURRED IN. Motion carried 7-0.**

EXECUTIVE ACTION ON HB 300

Motion: **SEN. MILLER** moved that **AMENDMENTS FROM THE MT ASSOC. OF REGISTERED LAND SURVEYORS BE ADOPTED. EXHIBIT(8)**

Discussion:

Mary Vandenbosch said these amendments will have to be edited, but can be conceptually accepted.

SEN. MILLER explained the amendments. **(EXHIBIT 8)**

SEN. TESTER said 60 working days is long enough.

SEN. BOHLINGER said this lengthens the process and time is money and he opposes this because it makes housing more costly.

SEN. HARGROVE said the bill clears up the confusion over holidays and weekends.

Vote: Motion **failed 1-5** with **SEN. MILLER voting yes.**

Motion/Vote: **SEN. TESTER** moved **HB 300 BE CONCURRED IN. Motion passed 5-3 with Bohlinger, Glaser, and Miller voting no.**

EXECUTIVE ACTION ON HB 353

Motion/Vote: **SEN. GLASER** moved **HB 353 BE CONCURRED IN. Motion carried 7-0.**